



**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
FRANKFORT, KENTUCKY**

**ADVISORY OPINION
2016-01**

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance (the “Department”) on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: ALL HEALTH INSURERS AUTHORIZED TO OFFER HEALTH BENEFIT PLANS IN THE COMMONWEALTH OF KENTUCKY

**FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE**

RE: AGENT COMMISSION PAYMENTS

DATE: January 6, 2016

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The purpose of this Advisory Opinion is to clarify inquiries received by the Department regarding the non-payment of commission payments to agents for certain products. In general, the Department takes the position that an insurer must adhere to the rates on file with the Department for specific products. In particular, KRS 304.17A-095(1)(a) requires each insurer that issues an individual or small group health benefit plan (“HBP”) to file with the commissioner rates for the specific HBP. KRS 304.17A-095(1)(a) further requires the insurer to adhere to those rates as filed with the commissioner.

In other words, insurers that issue HBP must implement the rate filing that has been filed and approved by the Department. Since agent commission payments are loaded into the rate filing when developing the rate, failure to pay commissions in accordance with the rate filing will be considered a violation of the Insurance Code.

Please contact the Department's Health and Life Division at (502) 564-6088 with any questions about this Advisory Opinion.

/s/ Sharon P. Clark
Sharon P. Clark, Commissioner
Kentucky Department of Insurance
On this 6th day of January, 2016.